

Request for a rehearing
Residential agricultural zone
Cocheco River and what it has to do
with us.

Sounds of The Trucks
275.22 Special Exemption Sheet
with our answered questions
showing a more detailed answer.
Statement from an abutter showing
the study oil trucks

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Request for a Rehearing

We are requesting a rehearing because we feel that there may be an error in procedure with the hearing and a decision.

Hearing had the lawyer answer the 5 standards then the board had the abaters come up and make statements. We had no information available to us other than what was on line. We called the zoning department and told us she, Crystal Galloway. She said she only had what was on the application. We tried very hard to explain why we felt that this oil company thing Energy was not a good fit for the neighborhood, we had concerns about traffic congestions and the blind driveway. An abater was told we would lose value on our homes. We explained we would have to deal with the noise, vibrations and smells of these trucks every day at least 5 best as we found out it will be a 24/7 delivery service, whether 6 AM or 3 AM. We explained

over concerns for the water going into the Cocheco River as well as ponds and other small rivers.

We live in an agricultural residential zone we are the buffer for the beginning of the more rural areas. We also found out at the hearing that they will be expanding the parking lot by 2,000 sq ft and when asked by a board member where would it be, Mr Canning said gravel and grass area. This wasn't completely true. They also said they would come into 10/20 off of Bear Road. This was done with the help of a board member because Mr Canning didn't quite get that information out. Where they are expanding is a hill in fact the parking lot is surrounded by a hill on three sides.

Since we were made to go up before Mr Canning we were unable to respond to what was going on. Also Mr Canning was asked about decibels of the oil trucks he said they tested at 30. We later found out that they were 100 decibels. You can lose your hearing over time if you are around 85 decibels. My husband and

myself went over to 10 Amarosa
Drive in Rochester (and) so we could
see their operation. But they were
not there anymore. Were are they?
There are much better fits
for these trucks than at this place.

RSA 18-20 .06

5

Residential agriculture or RA-2 zone

The residential agriculture zone applies to properties designated on the zoning map which are suitable for very low-density residential use and limited agricultural activities and contribute to maintaining the city's rural and small-town character and small-scale agricultural activities. This land use designation allows for buffer areas between exclusive agriculture areas and higher density residential areas.

Agricultural zoned areas are the buffer to the rural areas of the city, without it the city will over time take over rural areas and farms. They also protect the city's environmentally sensitive areas, scenic and the rural character to be maintained to keep our city desirable. There are natural sensitive areas along this neighborhood and if we do not stop the highway commercially zoned area from coming into our street Gear Road. (We are ^{agricultural} ~~residentially~~ zoned area.) we could set a precedent if this ^{happens} these small encroachments like Irving Energy being allowed to come

~~and~~ our RA-2 neighborhood as. They want maybe the beginning of the end of our zoning and our neighborhood.

The natural water coming down the hills down the right side of Gear Road. It is not just there in the parking area it continues down the street. Do to zoning changes over time many places do not have this natural area.

Allowing this type of business more in where ^{there} is no past type of business is bewildering. Irving Energy is being treated like businesses already ~~there~~ there at Access Plaza. This is not true. Irving Energy has only the smallest part of their business inside. We know with out fuel there would be no customers. Other businesses inside provide a service or small retail.

The most important thing is Irving Energy was asked about the expansion that was listed as minimal. Mr. ~~Cunning~~ Cunningham was asked about the expansion. Mr Cunningham told him they wanted to extend it to 7000 sq ft. The board member said that's almost as big as the current parking area. He was then asked does that mean 10/20 feet off of Gear Road he said yes. The board member asked where were they expanding, Mr Cunningham

said the gravel and grass area and about 2 parking spots. They also ~~mentioned~~ mentioned putting in a water and oil separator. Then the board member said well the Planning Board will handle the details.

We believe part of the hearing was done in error and not done correctly. The ZBA was to decide on was listed in the special exemption. By passing it off to ~~the board~~ the Planning Board looks like the ZBA had okayed the expansion of the parking lot. Ms Canning led the board to think as though the land was just sitting there waiting to be paved. This area is a hill and either it needs to be dug into it to level it or they have to fill it. Either way they intend to disturb the hill. This hill has grass, bushes and trees. Coming 10/20 feet off Gear Rd brings them even closer to us. They are about 30 feet down a hill or more. If they decide to dig they may need a retaining wall. Remember this is where for thousands of years has been doing a job of fettering water from above. This retaining wall may actually cause an echo of these trucks and we know they will be closer to the abutters homes.

Also when the board asked for the 5 questions to be answered the buildings Lawyer gave his answers.

These answers were so vague they never answered with the true intent. Even the answer of minimal changes to parking lot.

The board asked if there was any-one (against) against the Special Exception. Four families stood up. The board asked us to come up state our name, what was our interest and sign the paper.

All of the abutters came with their statements. All we knew is what was on the special exception sheet. The lawyer had nothing to add so we made statements of how it would effect us.

When we were done the board had Mr. Corning come up and ask them questions.

That's when we learned (what) of the placement of the expansion of the parking area.

What is the procedure? Leave the abutters in the dark and not allow them to be heard with all the facts out in the open. It doesn't feel right. Even in our court systems one side speaks then the other. One abutter felt so strongly about saying something he asked if we could be heard again. The board member gave him the chance to speak but was unable to get his true thoughts out because he felt we all should have been able to confront what they planned on doing.

Dept. of N. H. Environmental Services

Cocheco River

The Cocheco River is part of The Piscataqua River drainage basin, following near New Hampshire boundaries with Maine. The Cocheco watershed's 175 square miles is entirely within New Hampshire.

Headwater streams arise in Milton, Farmington, Middleton and New Durham.

The river flows approximately 34.8 miles in a southeastern direction from New Durham, descending to the Cocheco River valley in Farmington. From Farmington to Rochester, it flows as a small river in a forested river corridor. In Rochester the river emerges from the backyards of residential neighborhoods into the urban center of downtown Rochester, before becoming tidal in Dover, where it joins with the Salmon Falls River to form the Piscataqua River. The Cocheco River was designated into The New Hampshire Rivers Management and Protection Program in 2009.

The land use in the river corridor is a complex mix of rural

development, forests, wetlands and heavily-settled urban areas. Rapid suburbanization is decreasing the area of open lands in the middle and lower portions of the sub-watershed. In the lower Cocheco River reach, there is rapid growth in formerly rural areas of Dover, Somersworth and Rochester.

Geology

The formation of the Cocheco River began 18,000 years ago, as the last glacier moved its way across New Hampshire. The glacial activity played a major role in influencing the landscape and characteristics of the Cocheco River watershed. Nearly 20% of the watershed is overlain by stratified-drift aquifers, and about 10% of these aquifers are considered to be potentially high-yielding water sources. The larger aquifers are found in the New Durham, Farmington and Rochester areas.

Watershed is an ecosystem allowing a nutrient cycle, collects carbon, has erosion control and increases the biodiversity, has wild life movement corridors, water storage, water filtration, helps with flood control, food for

animals and keeps the hills, grass, bushes and trees intact.

What I believe is the board doesn't realize how close the Cocheo River is in relation to Access Plaza. It is only 1.1 miles from this business. Also that the properties and the hill in the parking lot area is how water is being filtered as it makes its way from there to a small river right into the Cocheo River. If there were to be an accident it would not get caught fast enough to stop it from making its way into the ground. This ground is and has been filtering water from rains and snow. Who will be watching. Is there really some one in the city or in government to keep tabs on this company. Or does this become our problem to.

There are areas in Rochester where this type of business would be welcomed.

Having Energy use to be at 10 Amrosa Drive in Rochester and has been out of that address for a while. They told the board that they were still there. This was checked wanting to see their operation. But it wasn't there. This was a few days after the July 14th 2021 ZBA meeting. What we did notice that there were no fences in area in the parking lot and the business had a lot of parking not like this very small parking area.

Sounds of Trucks

When you look into the information concerning oil trucks. They are heavier than commercial trucks. Also, if a commercial truck is using the parking lot most times it is empty. Oil, diesel and propane trucks will have fuel in them to be able to start their next day. This makes them much heavier than any commercial truck that has used this parking lot.

These trucks when starting every day won't just sit 5 minutes it will be for a period of time, depending on when drivers show up to work, weather will also have an effect on how long we will be exposed to everyday and including the smell of diesel and the vibrations going through our homes and through our beds. As we found out Mr Canning says (He) they are a 24/7 business especially in the colder weather. This means he can have trucks leaving 2 o'clock in the morning. The worst will be hearing them on our roads. We are not commercial we are agriculture residential. Why should we be exposed to a different going for this business.

These trucks as what was told by Mr Canning will expose our lives to noises any time day or

night and it may be seven days a week.

This is unreasonable to expect. Our neighborhood is quiet. After 8 or 9 o'clock the neighborhood tends to be uninterrupted by most traffic and noises.

Every day the abutters will first thing hear noises, and be vibrated out of bed whether or not we wanted to.

Mr Canning was asked what the decibels were on the trucks. He said they were tested at 50 decibels. All the information that was found this statement was not true. A ticking clock would be 20 decibels, 40 for a frig, 70 for a washer, 80 for a lawnmower, 95 for a motorcycle and 100 for diesel oil delivery trucks. The Occupational Safety and Health says 85 decibels or higher and can cause damage to your hearing.

If Irving digs into this hill and gets closer than the parking lot is now, we will start our every day angry with this oil company. They will have to either dig into the hill to achieve this or fill in the hill. Either way there has to be something up to hold up this hill.

We do not want to start our days as though we live in an

industrial area not hearing all
The birds that sing every morning.

Special Exception
Questions

1 The specific site is an appropriate location for the proposed use or structure.

their answer YES/NO

This is a highway commercial zone that is currently used for commercial vehicle parking and offices.

our answer YES/NO

We believe this building has never had businesses like this one being proposed. Hardwax materials in large heavy trucks which will store oil, diesel and propane. Even though the front of the business is zoned Highway Commercial the back is zoned agricultural residential. This is one reason for saying NO.

2 The proposal is detrimental, injurious, obnoxious, or offensive to the neighborhood.

their answer YES/NO

~~(The proposal)~~ There will be no changes in the use of the property that currently houses commercial

office and business ventures including parking of their commercial trucks.

our
Answers
2

(YES) NO

#2 Access Plaza's own rules say - Inside Dwelling all activity related to the home occupation shall be conducted inside the dwelling or inside a garage or barn-type out building. Also, #3 Character - Home occupations must be subordinate to the residential use and must have little or no impact upon the neighborhood. There must be minimal indication of the home occupation evident from the road or from neighboring properties. #6 Outside Storage / Parking. There shall be no outside storage or parking of materials, equipment, or vehicles (except for one ordinary passenger vehicle, pick up truck, or van related to the business). Box trucks are permitted by special exception subject to a determination that adequate buffering can be provided.

The abutters say the full answer to this question is broader than the special exception answer given by Access Plaza. They say no changes this is not true. They are bringing in oil trucks that are loud. They vibrate and smell of diesel fuel.

This company plans to expand the parking area and the only way to do this is to either dig into a hill that is our buffer from this business, and said they will be 10/20 feet off the street, Gear Road. This hill ~~is~~ about 30 feet down a hill. There are grasses on it, bushes and trees. If they are able to do this they would have to put a retaining wall because this hill is always catching water. If they do this they will be taken away the buffer we enjoy now. The tracks I believe will be requested to add more. They wanted 9, 10 of them and expected to grow. How can this company work out when the board said no more than six. Also these words detrimental means harmful, unfavorable, unhealthy, dangerous, ruinous (to our streets), undesirable, unsafe, noisome (offensive smells and unpleasant), risky it is hazardous material, (see) environmental prejudicial (oil and gas, diesel has a risk of having an accident. These hills have been working to clean water that ends up in the Cocho River. Properties down the right side ^{of Gear Rd.} has one at a time has

gotten permission to build as they wanted. The zoning rules doesn't seem to take into account of each project that ^{someone} wanted to do something with their land. Next thing you know we're ruined how the area works. We all know about water it will continue to find the river it just won't be as much. We have a chance to save a piece of the natural environment we should do better. Zoning boards forget that you are not making choices for just 1 property at a time. This is where mistakes take place. What if I ~~through~~ threw a bag of trash out the window. It's a bad, hurtful thing to litter. Now let 50 people do the same thing. This would be abusive. It would be unacceptable. This is how the board seems to work. When you look at these questions why allow ~~ed~~ such rage, incomplete and the answers are manipulated to get through the process to get what they want.

If this question doesn't show it is the wrong decision. The plaza and lawyers and Mr. Carrington made it sound so matter of fact. We the abutters do not want to be awake every day with trucks running maybe

over an hour is a long time. These trucks vibrate if they are allowed to get 10/20 feet off of our road we will have our beds vibrate. Theres nothing worse than listening to loud music with the base loud imagine any of you being awake, with noise, vibrations and noise over a period of time. You would become angry because some one was doing the wrong thing. Please rehear this situation, get your answers, the real answers. Allow the abattoirs to have our day of asking questions and saying we tried.

The pond area abattoir #map 59 has is so wild, you can barely hear Bonic Road. We have moose, deer, bears, many other small animals and birds, so many of them. After a day of rain his back yard, the lower part, feels like your walking on a very soft rug. The water comes up to your feet, its great. Because he kept it alone. Other properties did not. There is a wild ecosystem going on and this project will disturb the ecosystem at this parking lot. On the right side of the plaza some people started parking there and now theres no grass or bushes and the

The area is dry and unnatural.

Our neighborhood is a family oriented neighborhood. Adults and children walking and riding their bikes. Our streets have become busier than it was. Two years ago a group of buildings with 6 or 8 cars apiece. We believe there are 4 or 5 buildings. It's difficult now with out fuel trucks.

This question again was not answered with true intent of the question

How can the board allow an application to be processed with the lack of information. Trucks using our roads will wear down our roads and create cracks or worse. We have a peaceful street. By allowing companies to pick away at this city one neighborhood at a time. the ZBA are the first ones to see these applications. You are the ones to stop the pecking of our communities.

Traffic in the morning and early evening is terrible and you have to go all around the streets to get off. Trucks will find themselves doing the same thing.

3

There will be undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off street parking.

their
answers

YES/NO

The retail and office uses that are currently being used in a safe manner and will continue to do so.

our
answers

YES/NO

The definition of nuisance - a person, thing or circumstance causing inconvenience or annoyance.

Law definition - an unlawful interference with the use and enjoyment of land.

Some words to describe nuisance, inconvenience, irritant, problem, thorn in ones side, a pain and aggravation. As you see by these words that this neighborhood finds this company a nuisance. It's will be a source of annoyance. Everyday we will lose the enjoyment of our properties beginning at 6 AM when we heard these trucks starting up. Every one knows that employees come in at different times this means these trucks will start six times during the hour of getting ready to leave.

each day to be ~~awoke~~ by noises, vibrations and the smell of diesel fuel. When these Trucks come up the driveway with a heavy load swishing in the back of the trucks.

We have a blind highway they have to try and see cars coming off a the highway & are moving fast. By ~~then~~ the time they see each other it would be too late.

This business will be a nuisance because we lose. We lose our sleep and deciding when we want to wake up. We lose peace of mind because of the fuel being in this parking lot. We lose value on our homes. Who wants to move into this situation. We all would have to drop the price everyone else enjoys their true value.

This strip mall keeps saying this business is like the businesses inside. But that's not true. Most of their business is out in the parking lot. Again I will read the plaza's own rule #2 Access Plaza says: Inside Dwelling all activity related to the home occupation shall be conducted inside the dwelling or inside a garage or barn-type building. Also #3 says Character Home Building

occupation must be subordinate to the residential use and must have little or no impact upon the neighborhood and its residential use. There must be minimal indication of the home occupation evident from the road or from neighboring properties.

#6 Outside Storage / Parking. There shall be no outside storage or parking of materials, equipment, or vehicles (except for one ordinary passenger vehicle, pick up truck, or van related to the business). Box Trucks are permitted by special exception subject to a determination that adequate buffering can be provided.

Access Plaza are going against their own rules.

Where we have information on what Irving is going to do the hill. They used minimal so no one would talk about it, and when asked all that was said was the ground was gravel and grass. Not true it's a hill that provides our neighborhood from hearing these everyday going ons. They say no change. How can they mislead us and the board.

Why is this company going out of their bounds to hid real answers,

what are the reasons for saying minimal when it is not. The ZBAV should be ruled on the expansion of the parking area. You the Board gave it to the Planning Board. The planning board is going to assume it met the standards. But this was not done. There should be a rehearing on that by its self.

Nuisance is closely related to the Tort of trespass, which concerns the physical intrusion on the property of another. Nuisance differs from trespass in that it protects against interference with use of land. It does not require someone or something to be physically present on the property.

How to prove Nuisance

- 1) The plaintiff has a possessory interest in the land.

All abutters own their own land and homes.

- 2) A defendant performed an act that interfered with the plaintiffs use and enjoyment of his property.

The abutters will be awake every day by diesel oil trucks starting, running, vibration through our homes and beds. Being awake every day then because they are 24/7 business any other time they need to. Waking up angry every day can make you sick. Those of us who

already have health issues will have our problems increased and it may even cause pain just because this kind of situation is going to make everyone. We moved into a neighborhood we thought was maybe our last home. but if this business we will look around. I will not get any worse than I already have to be. There are other ~~about~~ abutters with health issues but I do not have permission to speak about it.

3) The defendants interface with the plaintiff's use or enjoyment of land was substantial and unreasonable.

This needs to be answered in two parts.

First this business doesn't exist yet so the answering this question will be answered with this in mind.

A substantial interference is one that would be offensive, inconvenient, or annoying to a reasonable person.

We know we will lose value in our property by how much I would like to find out before a rehearing if we are able to get this passed. No one would want to be exposed to these trades unless the price was less than a similar situation. We will be

inconvenienced every day we hear, smell and feel the vibrations. If these Trucks are allowed to get 10/20 from street They will be closer to our homes.

The second part of ^{question is} proof That this situation will be unreasonable. We will lose sleep and be disturbed by noise, smells and vibrations. How much of this we would have to find out. We did not move into this situation. Mr Canning Told the board he was at 10 Am arosa drive but my husband and I wanted to see their business and found that They hadn't been there for a while. This was 2 days after hearing on July 14, 2021.

There was no areas of fenced in area in the parking lot. not even a truck. Where are they. Also This company had an area almost around the corner from them. There is a non contamination area they could have gotten into across from O'Keefe's on Milton Road. Maybe someone might remember Charlies garage. He could ~~expand~~ expand to his heart content. Information was given to him by some who had the same thought. O'Keefe was there that night. Mr Canning Took the information

Unreasonable comes with the fact that we lose our peace of mind. We have a constitution right to pursue happiness, which we all did think. Now we are told because a business wants to be in that plaza we have to deal with it, never mind thinking about diesel and propane sitting there. Will there be an accident. This will stay on our minds. Also we have talked to each other about this company gets in they may try and get more trucks in there. Can that happen? Can they ask a year from now with maybe a different group of ZBA members? Once they are in they can even buy out plaza and show how they should have what ever they want. This weighs heavy in some of our minds. They ~~didn't~~ had to get a special exemption for a small ^{concrete} slab.

5 The proposed use of structure is ~~found~~ consistent with the spirit of the ordinance and the intent of the Master Plan.

Their Answer YES/NO

The parking of commercial vehicles is currently allowed in this highway commercial district but because the trucks hold fuel and would be

arranged appointment only; or

D. for barn sales as specified under Home Occupation - III.

#6 Outside Storage/Parking. There shall be no storage or parking of materials, equipment, or vehicles except for one ordinary passenger vehicle, pick up truck, or van related to the business. Box trucks are permitted by special exception subject to a determination that adequate buffering can be provided.

#7 Performance Standards. There shall be no emission of noise, odor, dust, fumes, vibration, or smoke beyond the property or, in the case of multi-family dwellings, beyond the dwelling unit.

We believe we have given a clearer answer to these 5 standards. The only thing they have is I want my business in that parking lot.

considered "fuel storage" this special exception is needed.

D.M.
Answer

Yes No

We say no because The company Astoria Bird Realty Corp adopted what ever was in place or They put it together

Requirements for occupations.

It says "The following standards apply to all home occupations" then (If any of these cannot be met, it will be ~~denied~~) deemed NOT an allowed use. This was connected to an special exception that was processed in 2019.

#3 Character - Home occupations must be subordinate ~~to~~ to the residential use and must have little or no impact upon the neighborhood. There must be minimal indication of the home occupation evident from the road or from neighboring properties.

#4 Retail sales There shall be no retail sales of goods or products on the premises, except

A as may be incidental to the primary office or personal services occupation (such as sales of hair products to a salon customer);

B for goods shipped pursuant to mail / email / Telecommunication

C To customers who visit by pre-

July 12, 2021

3

In regards to Case number: Z-21-14 Application put forth by Astoria Blvd Realty Corp at 323 Gonic Road

Map 258 Lot 61

Seeking a Special Exception from Section 18.5 to permit parking of fuel trucks in a 7,000 SQFT area in the Highway Commercial Zone. Our Residential home property is located at 4 Gear Road and we are direct abutters to this proposed project. We are here to object to this as this is our permanent residence and we are very concerned about the noise, pollution and disruption to our property values.

- This Special Exception from Section 18.5 should **NOT** be granted and this is why...

As of March 2021, 564,217 releases were confirmed from oil systems, Trucks and oil tankers. For state-by-state data (reported semi-annually) such as the number of active, open and closed tanks, releases reported, cleanups initiated and completed, inspections, and facilities in compliance with EPA requirements and go to the direct affect of property value and health!

These releases have been caused by leaks, spills, and overfills. These releases can threaten human safety and health as well as the environment because Oil systems contain hazardous and toxic chemicals. Fumes and vapors can travel beneath and above the ground and collect in areas such as basements, utility vaults, and parking garages where they can pose a serious threat of explosion, fire, and asphyxiation or other adverse health effects. May I remind you that you have a public Golf Course right across the street as well.

Gasoline, leaking from service stations and trucks, is one of the most common sources of above and below ground water pollution. Because approximately one-half of the population of the United States relies on ground water as their source of drinking water, ground water pollution is a serious problem. Many municipal and private wells have been shut down as the result of contamination caused by releases from oil delivery systems.

Perils of petroleum hauling include tight delivery sites, traffic, tank identification, spills, and contamination.

Big trucks can pose familiar hazards on the road—and tanker trucks share many of those common hazards.

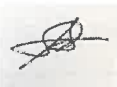
1. Large Blind Spots. ...
2. Greater Mass. ...
3. Long Hours on the Road. ...
4. Inadequate Driver Training. ...
5. Shifting, Sloshing Cargo. ...
6. Potential Hazardous Chemicals. ...
7. Under-Loaded Tanks. ...
8. Leaks.

Preventing and cleaning up releases are the two primary goals of the programs that regulate oil delivery vehicles. Cleaning up petroleum releases is difficult and usually expensive; it is easier and less costly to prevent releases before they happen. The old adage of "an ounce of prevention being worth a pound of cure" is particularly relevant to oil systems.

Prepared by Grace Armano and Brian Healey – 4 Gear Road, Rochester, NH 03839 Parcel ID:
025800440000

7/12/2021

X



Grace Armano

Signed by: Grace Armano